



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 22, 1994

Ms. Alesia L. Sanchez  
Legal Assistant  
Legal Services, 110-1A  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR94-568

Dear Ms. Sanchez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 26004.

The Texas Department of Insurance ("the department") received a request for its entire file on File No. PO26458, concerning Western National Life Insurance Company. You have enclosed what you say are "representative samples" of the information the department seeks to withhold from disclosure. You say that you will release some of the requested information, but seek to withhold from required public disclosure certain intra-agency memoranda based on section 552.111 of the Government Code.

Section 552.111 of the Government Code excepts from required public disclosure:

an interagency or intraagency memorandum or letter that would  
not be available by law to a party in litigation with agency.

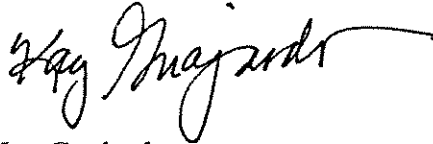
This exception applies to a governmental body's internal communications consisting of advice, recommendations, or opinions reflecting the policymaking process of the governmental body at issue. *See* Open Records Decision No. 615 (1993). This exception does not except from disclosure purely factual information that is severable from the opinion portions of the communication. *See id.*

We conclude that section 552.111 applies to portions of the memoranda at issue and have marked the documents accordingly. We do not apply the exception to the factual information in the memoranda; consequently, those factual portions must be released.

In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499, 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Kay Guajardo  
Assistant Attorney General  
Open Government Section

KHG/MRC/rho

Ref.: ID# 26004

Enclosures: Marked documents

cc: Mr. Joseph M. Belth  
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